

IN THE SUPREME COURT OF THE STATE OF NEVADA

CURTIS SCOTT WILLIAMS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35734

FILED

NOV 21 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

CURTIS WILLIAMS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35761

ORDER OF AFFIRMANCE

Docket No. 35734 is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Docket No. 35761 is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. We elect to consolidate these appeals for disposition. See NRAP 3(b).

On October 13, 1998, the district court convicted appellant, pursuant to a guilty plea, of one count of burglary. The district court sentenced appellant to serve a term of 15 to 38 months in the Nevada State Prison to run concurrent to a Utah sentence. This court dismissed appellant's direct appeal. Williams v. State, Docket No. 33195 (Order Dismissing Appeal, February 12, 1999).

Docket No. 35734

On August 31, 1999, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Appellant filed

a reply. Pursuant to NRS 34.750, the district court declined to appoint counsel to represent appellant. On December 1, 1999, the district court conducted an evidentiary hearing during which appellant represented himself. On February 10, 2000, the district court denied appellant's petition. This appeal followed.

In his petition, appellant first contended that he received ineffective assistance of counsel because his counsel misinformed him regarding the elements of burglary. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, an appellant must demonstrate that his counsel's performance fell below an objective standard of reasonableness. Further, an appellant must demonstrate a reasonable probability that, but for counsel's errors, appellant would not have pleaded guilty and would have insisted on going to trial. See Kirksey v. State, 112 Nev. 980, 923 P.2d 1102 (1996); see also Hill v. Lockhart, 474 U.S. 52 (1985). Appellant failed to demonstrate his counsel's performance was deficient. The district court specifically found that the voluntary statements given by the witnesses to the police contained sufficient facts to support a conviction for burglary. Further, in exchange for his plea of guilty, the State agreed not to oppose dismissal of two additional cases. Thus, appellant has failed to show a reasonable probability that, but for any alleged errors of counsel, he would not have pleaded guilty and would have insisted on going to trial.

Appellant next contended that his sentence constituted cruel and unusual punishment because he did not commit the crime. This claim falls outside the narrow scope of claims allowed in a post-conviction petition for a writ of habeas corpus challenging a conviction based upon a guilty plea. See NRS 34.810(1)(a). Moreover, appellant raised this claim in his direct appeal, thus, this claim is barred by the doctrine of law

of the case. See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975) (stating that the law of a first appeal is the law of the case on all subsequent appeals in which the facts are substantially the same).

Last, appellant claimed that his guilty plea agreement was breached because: (1) he was promised a release from custody to secure more competent counsel as part of the plea negotiations; (2) he was promised probation but was sentenced to 15 to 38 months in prison; (3) he did not receive an OR release which he alleged was part of the plea negotiations; and (4) the district court denied his request to withdraw his guilty plea before he was sentenced. These claims are repelled by the record on appeal, and the district court did not err in denying his motion to withdraw his guilty plea. See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

Therefore, we conclude that the district court did not err in denying appellant's petition.

Docket No. 35761

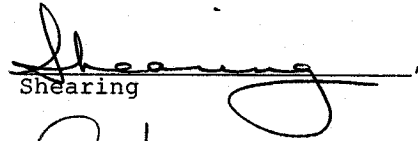
On September 22, 1999, appellant filed another proper person petition for a writ of habeas corpus in the district court. The State opposed the petition. On December 22, 1999, the district court denied the petition. This appeal followed.

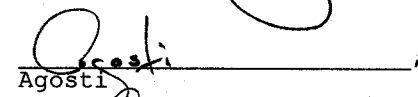
In his petition, appellant first challenged the validity of the Utah detainer. Specifically, he contended that the Utah detainer was fatally deficient because it was not authenticated by the governor of Utah. Second, appellant claimed that Utah was informed on numerous occasions that appellant was ready to be extradited, however, Utah never came to pick up appellant. Based upon our review of the record on appeal we conclude that the district court did not err in denying appellant's petition.

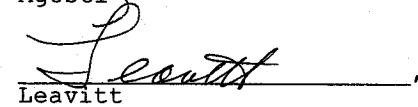
Conclusion

Having reviewed the records on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976). Accordingly, we affirm the orders of the district court.

It is so ORDERED.


Shearing, J.


Agosti, J.


Leavitt, J.

cc: Hon. Joseph T. Bonaventure, District Judge
Hon. John S. McGroarty, District Judge
Attorney General
Clark County District Attorney
Curtis Scott Williams
Clark County Clerk